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C O N F I D E N T I A L SECTION 01 OF 04 KUWAIT 003608

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SUBJECT: KUWAIT IPR ENFORCEMENT: MESSAGE RECEIVED, BUT
LIMITED PROGRESS

REF: A. KUWAIT 0790

- [1](#)B. KUWAIT 1965
- [1](#)C. KUWAIT 2251
- [1](#)D. KUWAIT 3222
- [1](#)E. 2004 KUWAIT 4217

Classified By: Ambassador Richard LeBaron for reason 1.4 (b)

[1](#)1. (U) Summary and Comment: In meetings late July with Ministry of Information officials and other interlocutors familiar with the IPR situation in Kuwait, Econ Officer heard that the GOK has gotten the message on the importance of intellectual property rights (IPR) enforcement and protection. An inter-ministerial committee on IPR is the talk of the town, and the Ministry of Information is expected to launch a new IPR enforcement task force in September and has made some organizational changes which should bode well for increased attention to IPR issues. The new copyright law is being studied and prepared by legal advisors in coordination with the Ministry of Information, and is expected to be presented to the National Assembly for ratification by the end of 2005. An IPR Exhibition organized by the Kuwait Bar Association and a new Kuwaiti IPR Association are bringing more concerned players to the table, while street enforcement and public awareness campaigns are on the increase. Ministry of Commerce and Kuwaiti Customs Agency staff have taken advantage of USPTO IPR training courses this summer, and we are actively encouraging Ministry of Information participation in future training opportunities. Comment: We believe that the entry of a new Information Minister, the interest of the Prime Minister, and various public relations events (including watchlisting) have pushed the GOK in the right direction in dealing with IPR problems. However, there is still much to do and the Kuwaiti bureaucracy will need to overcome considerable inertia to translate good intentions into comprehensive IPR protection. End Summary and Comment.

"We Recognize It's a Big Problem"

[1](#)2. (SBU) During a July 20 meeting, Ministry of Information Undersecretary Ibrahim Al-Nouh told Econ Officer that the GOK was now "serious about IPR" and "recognizes it is a big problem," but "needs more time" to affect real change. "The pirates are now afraid," he added, but said that the penalties for piracy were still too weak to act as effective deterrents. According to Al-Nouh, newly-appointed Minister of Information Dr. Anas Al-Rasheed is "giving priority to IPR." He said that "the companies expect rapid results," but that this was difficult to achieve and the laws still needed to be changed. In a separate meeting with Kuwait Bar Association IPR Committee Chairperson Nidal Al-Humaidan, she told us that "everyone wants to work on this issue now, because Shaykh Sabah (the Prime Minister) is pushing it. Everyone wants a part."

A New Order at Ministry of Information

[1](#)3. (SBU) Director of the Intellectual Property Department of the Ministry of Information Rasha Al-Sabah has proven in the past to have an excellent understanding of what Kuwait needs to do on IPR. She recently returned from maternity leave and we had a chance to catch up with her. (Bio Note: Rasha Al-Sabah is the current Amir's granddaughter. She is about 35 years old and speaks excellent English.)

[1](#)4. (C) Al-Sabah bemoaned the loss of Judge Khaled Al-Hindi as IPR Advisor to the Minister of Information. Al-Sabah said that the new IPR Advisor, Fayez Al-Kandari, "lacks hands-on practice of IPR" and "needs more education in international copyright laws." Al-Humaidan of the KBA IPR Committee said that "Judge Kandari will be key, but won't be as good as Judge Al-Hindi." (Comment: Al-Hindi has exhibited to Embassy Officers in the past a clear understanding of IPR issues and what Kuwait needs to do to comply with international laws (Ref A). He returned to his normal judicial duties when the previous Minister of Information resigned. Al-Kandari is a civil law professor at Kuwait University, and according to

previous reporting, does not yet have a particularly clear grasp of the deficiencies in Kuwait's copyright law (Ref B).)

15. (C) Al-Sabah said that U.S. pressure on Kuwait to take action on IPR protection and enforcement has been a "blessing in disguise," and that "things would have remained the same without U.S. pressure." She showed Econ Officer a U.S. Patent and Trademark Office press release for the STOP! campaign (Strategy Targeting Organized Piracy) and said that Kuwait should develop a similar program. According to Al-Sabah, the Kuwait Chamber of Commerce & Industry should be doing more to educate the business community about IPR, and the Kuwaiti Bar Association could do more as well. She said that the Kuwaiti companies that get involved with piracy "want a large profit margin but do not understand the effects of piracy." What Kuwait really needs, Al-Sabah said, was "an independent agency, like the USPTO," that would bring together all of the IPR-related efforts. "There is no coordinated effort now," she complained, "it's just based on knowing the right people."

Special 301 Report

16. (C) The latest version of the Special 301 Report, with Kuwait remaining on the Priority Watch List for 2005, appears to be causing discomfort in the right places. Information Ministry Undersecretary Al-Nouh described the recent Special 301 report as "harsh" and asked for "more support." Director of the Information Ministry's Artistic Works Department Ghannas Al-Adwani, who has been previously described as "the largest impediment to proper IPR protection" (Ref A), told us on July 20 that "everyone is offended and upset" by the Kuwait's continued placement on the Priority Watch List. According to Al-Adwani, Kuwait's "reputation is damaged" and the Information Ministry is "giving (its) maximum efforts." He added that companies holding IP rights can always make a civil complaint, and can sue the IPR violators. Al-Adwani suggested that some problems could be solved if Kuwait had a "settlement method" between violators and rights holders. He concluded that "the numbers submitted about Kuwait in the Special 301 report were exaggerated." (Comment: Other trusted Ministry of Information interlocutors have told us in the past that Al-Adwani had taken it upon himself to bring in shop owners accused of selling pirated goods, make them swear in writing to stop, and then closed the cases. Ref A).

Kuwait's Problem is "Different" Than Rest of GCC

17. (SBU) Some of the people we spoke with saw Kuwait as having a different problem than other GCC countries, particularly UAE, Bahrain and Qatar. Al-Nouh said that he had traveled recently to all three countries to see how they tackle their IPR problems, and he said that he thought there was a "big difference" in the problems that Kuwait faced. In Kuwait, he explained, there are over 6,000 stores which could potentially be selling pirated goods. In the other countries, he said, there were not more than a couple hundred stores. He said that "Kuwait should not be judged the same way" as these other smaller countries, but should instead be looked at as a market similar to Saudi Arabia. Al-Adwani of the Artistic Works Department echoed Al-Nouh's opinions, saying that Dubai "has the power to make quick decisions," and that "laws in Kuwait take years" to change and implement.

Taking It To The Street

18. (SBU) Increased street-level enforcement actions by the Ministries of Commerce (Ref D) and Kuwait Customs (Ref E) seem to have finally spurred some enforcement actions by the Ministry of Information. Al-Nouh said his inspectors are going to shops and making raids, but that the small inspection teams have "become well-known to the pirates," making them less effective. He said that the shops now use "look-outs," and that the inspectors had even tried using their own children to go into stores and ask for copies of pirated goods, in order to avoid recognition. He added that it was difficult for him to change inspectors without the Minister himself giving an order. One difficulty, Al-Nouh said, is that pirated music CDs and movies are often sold behind the counter at textile shops and other types of stores which the Ministry of Information does not have the explicit authority to enter.

19. (C) Al-Humaidan of the KBA IPR Committee said that the Ministry of Information "doesn't know the (enforcement) procedures, follows the wrong procedures, or just doesn't care." She added that the inspectors often don't write the date or time on piracy raid reports or forget to sign them, thus invalidating them. "Microsoft has lost many cases because of this," she emphasized.

¶10. (SBU) Rasha Al-Sabah of the Ministry of Information told us that she has been given the authority to take all IPR enforcement measures under her jurisdiction and that she will have a new task force under her authority starting in September. The task force will consist of 40 people and she is trying to recruit young people who all have extensive technology training. Training IPR experts on technology is much more difficult than training technology experts on IPR, she explained, and added that the Kuwait Institute for Legal Education would provide "crash courses" on IPR to the new enforcement team members. Her team will have the authority to make seizures and to refer cases to the public prosecutor, and will focus on CD, software, and broadcast piracy. Despite the high rate of broadcast piracy in Kuwait, Al-Sabah noted, the satellite TV companies had offered "zero support."

Taking It To The Public

¶11. (U) Rasha Al-Sabah said that the Ministry of Information was planning a media campaign on intellectual property awareness for after Ramadan, but that direct education was needed, "for parents and children." She envisioned a "targeted TV campaign to get out the message," and said that it would be ideal to have private companies contribute to this campaign.

¶12. (SBU) Kuwaiti companies need to be more involved in the public campaign, according to Al-Humaidan of the KBA IPR Committee. She said that the challenge is that, with little direct foreign company participation in the Kuwaiti economy, it was up to each company's agent in Kuwait to push for increased IPR protection. The agents often will not take any actions, she explained, for a variety of reasons. She added that many foreign products are sold in Kuwait through distributors, not agents, and that the distributors have no legal right to speak on behalf of the foreign IP holders. She hoped that, with increased attention being paid to fake medicines and auto parts, safety issues could be used to better educate consumers on the dangers of pirated goods.

¶13. (C) Al-Adwani did exhibit some understanding of the challenges of bringing the issue to the public's attention. "In advanced countries," he explained, "IPR is about the public benefit, not the personal interest." "The street man in the Middle East does not understand this," he continued, "and does not understand how it harms the reputation of Kuwait." He added that "normal people cannot make the distinction between real and pirated products," and that "no one makes public complaints about pirated materials, like they do about drugs."

New Copyright Law Still In The Works

¶14. (SBU) Al-Nouh said that amendments would be added to the new copyright law to stiffen punishments for piracy. Rasha Al-Sabah expected the new draft copyright law to be ready after Ramadan (November), and would take into account comments from USPTO and others. She said that the new law would aim to be in complete compliance with all of Kuwait's international obligations, including WIPO treaties and the Rome and Bern conventions on copyright protection. Al-Sabah explained that the Kuwait Judicial Society and the Kuwait University Faculty of Law were both helping to draft the new law.

¶15. (SBU) Al-Humaidan of the KBA IPR Committee said that jail sentences could be applied for piracy under the current law but that no judge is giving out any jail sentences. She said that "if one judge were to give even one month in jail to someone, so many people would stop (being involved in piracy)." She pointed out, though, that the jail sentences would have to be given to the people at the top of the chain, rather than the street-level hawkers.

IPR Exhibition in September

¶16. (U) The Kuwait Bar Association (KBA) established an IPR Committee three years ago, according to Committee Chairperson Nidal Al-Humaidan, and the past year has seen "an increased emphasis" on the issue. The KBA and the Ministry of Commerce and Industry will hold an "IPR Exhibition" on September 19-20. This exhibition will give companies an opportunity to showcase genuine products and will be aimed at consumers in order to educate them on the differences between real and fake products. Al-Humaidan told us that the idea of an exhibition came about because "everyone was tired of always just going to seminars." "Speaking, speaking, speaking," she said, "it's all we ever do." She explained that the sponsors of this exhibition hoped to reach a different audience, and added that she was working with the Ministry of Education to arrange for high school students to come to the exhibition as a field trip.

Inter-ministerial Committee Formed...Sort Of

17. (U) Al-Nouh and others repeatedly spoke of the new inter-ministerial IPR Committee formed in May 2005 (Ref C), which includes the Ministries of Information, Commerce, and Interior, as well as representatives from the Kuwaiti Customs Agency, and the municipalities. Al-Nouh said that the IPR Committee would consist of people at the Undersecretary level, but that no one had been specifically named to the committee yet. Al-Humaidan of the KBA IPR Committee said that she thought this inter-ministerial committee "could work well, if they get together" and "if specific people are named."

Kuwait IPR Association

18. (SBU) According to Rasha Al-Sabah, the Kuwait IPR Association has about 50 members and is headed by Shaykh Salman Dawood Al-Sabah. She said that she is "not sure what they are really doing" but that many prominent people, from within the GOK and from the private sector, had become members. She said that she thought it was an interesting initiative and hoped that it would be put to good use.

But "Things Still Cost Too Much"

19. (C) While all of the people we spoke with recognize the problem, some are still toeing the "piracy exists because things cost too much" line. Al-Nouh himself asked if the companies were aware how much the agents and distributors actually charge for their products in Kuwait and said that the companies "need to know what the realistic difference is in prices" between the real and pirated products. He added that the companies "should know if they reduce prices they will get more sales of genuine products," and that "consumers might decide to buy the legitimate product if it was cheaper." Speaking from the same playbook, Al-Adwani also said that "manufacturers should look at the pricing issue." Repeating points made by Post before (Ref C), Econ Officer explained to Al-Nouh and Al-Adwani that piracy was more than just a question of price and that it negatively impacts Kuwait's reputation in the world as well as Kuwait's ability to attract foreign investment.

More Training Still Needed

20. (U) Al-Nouh said that more training was needed, including courses and workshops in Kuwait and any training programs available in the United States. He also repeated an earlier request (Ref C) for better technology to track IPR enforcement. "We have a problem in technical expertise, and while our plan is long term, we need short term technical help," he added. Rasha Al-Sabah said that Kuwait University was now offering training in copyright law as part of the Faculty of Law curriculum. She added that the "Center for Excellence in Management" at Kuwait University also has experience with WTO obligations and could offer assistance in IPR training.

21. (U) Note: Post has nominated a number of employees of the Ministries of Commerce and Information as well as Customs Agency employees to attend IPR training programs offered by the USPTO. This summer alone we have sent back three Kuwaitis for training and we hope to send additional people for training this fall, especially Ministry of Information employees. End Note.

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